

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Nevada State Democratic Party
Roberta A. Lange, Chair
1210 S. Valley View Blvd., Suite 114
Las Vegas, NV 89102

Complainant,

v.

Danny Tarkanian for Congress
Judith Flynn, Treasurer
7220 S. Cimarron Rd., Suite 100
Las Vegas, CA 89113

MUR # 6606

RECEIVED
FEDERAL ELECTION
COMMISSION
2012 JUL 11 PM 2:07
OFFICE OF GENERAL
COUNSEL

Respondent.

COMPLAINT

Complainant files this complaint under 2 U.S.C. § 437g(a)(1) against Danny Tarkanian for Congress (the "Committee"), the principal campaign committee for Danny Tarkanian, a candidate for Congress in the fourth district in Nevada, and Judith Flynn, treasurer. The record demonstrates that the Committee accepted contributions above the legal limit, failed to refund corporate contributions within the required 30 day period, and failed to properly report as much as \$250,000 in operating expenditures.

A. Facts

The Committee filed a second amended first Quarterly Report for 2012 on May 31, 2012. This report continues to list excessive contributions from DeWayne Zinkin, which have not been refunded. A \$2500 contribution by Zinkin Entertainment, LLC for the primary election was attributed to DeWayne Zinkin (Line 11a, pg 97). However, DeWayne Zinkin also made an individual contribution of \$2500 for the primary election (Line 11a, pg 96). Zinkin Entertainment, LLC's \$2500 general election contribution was also attributed to DeWayne Zinkin (Line 11a, pg 98).

Based on a review of the second amended first Quarterly Report for 2012, the Committee also failed to refund illegal corporate contributions within the required 30 day period. A contribution received on February 9, 2012 from the Rogich Communications Group was refunded on March 30, 2012 (Line 11a, pg 89; Line 20a, pg 130). The Committee also failed to refund illegal corporate contributions within the required 30 day window during the pre-primary election period, as reported in its Pre-Primary Election Report filed on May 31, 2012. An AM Power Systems contribution received on March 30, 2012 was not refunded until May 1, 2012 (Line 20a, pg 46). The Attorneys'

Investigative Consultants April 1, 2012 contribution was not refunded until May 5, 2012 (Line 20a, pg 46). A Cholakian Investments, Inc. contribution received on March 6, 2012 was not refunded until April 8, 2012 (Line 20a, pg 46). The Committee did not refund a contribution received from Haig's Quality Printing, received on March 30, 2012 as reported in the second amended first Quarterly Report for 2012 (Line 11a, pg 43), until May 1, 2012 (Line 20a, pg 46).

The second amended first Quarterly Report lists the total operating expenditures for the reporting period as \$71,985.80 with an election cycle-to-date total of \$321,985.80 (pg 4), which means that the Committee spent \$250,000 prior to January 1, 2012. However, the Committee only lists operation expenditures of \$1085.05 for the reporting period and \$0.00 election cycle-to-date in its amended 2011 Year End Report filed on June 1, 2012 (pg 4). Its amended third Quarterly Report for 2011 filed on May 31, 2012 reported expenditures from Mr. Tarkanian's Senate campaign, not his Congressional campaign. So, at least \$248,914.95 and as much as \$250,000 in operating expenditures were not reported during the reporting period in which they were made.¹

B. Legal Analysis

Under Federal Election Campaign Act of 1971 (the "Act"), it is illegal for any person, including partnerships, to contribute, and for any candidate to receive, contributions to candidates in excess of \$2500 per election.² This limit applies both to a partner's contribution from personal funds and from his profits from a partnership or LLC. It is clear that the Committee violated the Act by accepting and depositing an excessive contribution of \$2500 from DeWayne Zinkin.

The Act also prohibits corporations from making contributions, in connection with any election for federal office.³ Federal Election Commission ("Commission") regulations require the Committee to include a statement noting that the legality of the contribution is in question in the report with the contribution, if a contribution appears to be illegal and is deposited.⁴ The contributions from Rogich Communications Group, AM Power Systems, Attorneys' Investigative Consultants, Cholakian Investments, Inc. and Haig's Quality Printing appear to be illegal and the Committee should have included statements noting the contributions questionable legality in its reports. Even if the contributions did not appear illegal, Commission regulations require the Committee to refund the contributions within 30 days if it can not determine that the contribution is legal.⁵ None of the above mentioned contributions were refunded within 30 days.

¹ It is unclear if the operating expenditures listed on the 2011 Year End report were for Mr. Tarkanian's current Congressional campaign. Given that the election cycle-to-date totals on that report are \$0.00 for all receipts and disbursements, it is impossible to make that determination.

² 2 U.S.C. § 441a(a)(1).

³ See *id.* § 441b(a).

⁴ 11 C.F.R. § 103.3(b)(5).

⁵ *Id.* § 103.3(b)(1).

Under the Act, a candidate's authorized committee must disclose all operating expenses for the reporting period and election cycle.⁶ Commission regulations require authorized committees to itemize all disbursements to any person that aggregate \$200 or more within an election cycle.⁷ The Committee failed to report as much as \$250,000 in operating expenditures on any report, other than including it in the election cycle-to-date totals. Not only is this a clear violation of the Act and FEC regulations, but it also makes it impossible to determine on what the Committee is spending its funds.

We respectfully request that the Commission find reason to believe the Committee and its treasurer violated the Act, and initiate an investigation into this matter. We further request that the Committee be required to disgorge all excessive and illegal contributions; amend its filings to properly report its operating expenditures; and be enjoined from further violations and be fined to the maximum permitted by law.

Sincerely,

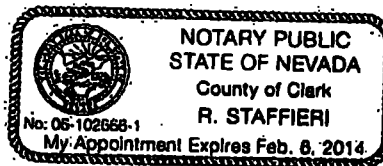
R. Staffieri

SUBSCRIBED AND SWORN to before me this 26th day of June, 2012.

[Signature]
Notary Public

My Commission Expires:

02-06-2014



⁶ 2 U.S.C. § 434.

⁷ 11 C.F.R. § 104.3(b)(4)(A).